

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re:	)	
	)	
SKI MARKET, INC.,	)	Chapter 11
	)	
Debtor	)	Case No. 09-22502-HJB
	)	

**ORDER**

Upon the "Motion [of Mirick, O'Connell, DeMallie & Lougee, LLP] to pay Chapter 7 Counsel Fee," and after further review of the decisions of Morse v. Ropes & Gray, LLP (In re CK Liquidation Corp.), 343 B.R. 376 (D. Mass. 2006), issued by the United States District Court for the District of Massachusetts (Gorton, J.), and Lassman v. Schultz (In re Anctil Plumbing & Mech. Contractors, Inc.), 394 B.R. 1, 7 (Bankr. D. Mass. 2008) (Hillman, J.) and further reflection, the Court: (1) will follow the said district court and bankruptcy court decisions insofar as this Court concludes that under Lamie v. U.S. Trustee, 540 U.S. 526 (2004), counsel for a Chapter 11 debtor may not be compensated for services rendered to the debtor after conversion to Chapter 7 from a flat fee retainer created after the commencement of the bankruptcy case; and (2) finds and rules that the distinctions raised by the movant in this case are unavailing.<sup>1</sup> Accordingly, the motion is, regrettably, DENIED.



DATED: August 25, 2010

\_\_\_\_\_  
Henry J. Boroff  
United States Bankruptcy Judge

<sup>1</sup> The movant argued that funds remaining on account of his prepetition retainer, if not segregated and paid for Chapter 7 counsel fees, would have been otherwise consumed by other administrative expenses. Although that argument is not frivolous in the larger context of the case, case law has limited the question before this Court only to whether or not the funds in question are property of the estate. Regardless of how the funds are consumed, the funds which the movant holds are indeed property of the estate.